

CHANGES TO FEBRUARY 26, 2006 NOTICED DRAFT

Proposed Addition: California Code of Regulations, Title 4, Division 18,

Chapter 10. Discipline, Hearings, and Decisions

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12550. Purpose and Scope

- (a) The purpose of this chapter is to set forth disciplinary procedures and guidelines applicable to the holder of any license, registration, permit, finding of suitability, or approval issued by the Commission.
- (b) The disciplinary guidelines in this chapter are designed to promote fairness and flexibility in dealing with a wide range of disciplinary scenarios. Variation in penalties based on circumstances and factors in aggravation or mitigation are part of this disciplinary scheme to promote compliance with applicable laws and regulations.
- (c) Nothing in this chapter is intended to limit the authority of the Commission to issue orders of summary suspension pursuant to Business and Professions Code section 19913, or to limit the authority of the Division to issue emergency orders pursuant to Business and Professions Code section 19931.
- (d) Nothing in this chapter shall be construed to prevent the Commission from ordering an investigation by Commission staff on a matter brought before the Commission; instituting a civil action in any superior court to restrain a violation of the Gambling Control Act, pursuant to Business and Professions Code section 19824, subdivision (g); referring a matter to the Attorney General or any district attorney or city attorney for civil, criminal or administrative action; or requesting the Division of Gambling Control to conduct an investigation pursuant to information gathered independently by the Commission or supplied to it by a third party.
- (e) Nothing in this chapter precludes any person from notifying the Commission or the Division regarding any violations of law or reasons why the holder of any license, registration, permit, finding of suitability, or approval should be disciplined.

(f) Nothing in this chapter precludes the Division, in its discretion, from issuing warning notices, notices to cure, advisory letters regarding violations or possible violations of law, or from withdrawing such upon further investigation.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19914, 19920, 19922, 19924, 19930, 19971, and 19984 of the Business and Professions Code.

Reference: Sections 19913, 19930, and 19931 of the Business and Professions Code.

12552. Settlements

(a) At any time, the Commission and respondent may enter into a settlement of the accusation as provided in this section.

(b) Any settlement of an accusation shall include a plan for immediate abatement of the violation, a plan for immediate compliance with all statutory and regulatory requirements, an agreement to any penalty imposed, and shall be a full and final settlement of the violation including a complete waiver of all judicial or other review unless otherwise agreed to by the Commission.

(c) Any settlement of an accusation shall be submitted by the Division for approval by the Commission at a noticed Commission meeting. The Commission shall have final approval authority concerning any such settlement. If the Commission rejects a settlement or agreement, and no amended agreement or settlement is reached before two additional regularly noticed Commission meetings have concluded, or sixty days have elapsed, whichever is later, the Division shall proceed with the formal hearing process under this Chapter.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19920, 19930, 19942, and 19984 of the Business and Professions Code.

Reference: Sections 19824, 19826, 19827, 19840, and 19930 of the Business and Professions Code.

12554. Formal Hearing Process

(a) Upon the filing with the Commission of an accusation by the Division recommending revocation, suspension, or other discipline of a holder of a license, registration, permit, finding of suitability, or approval, the Commission shall proceed under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In the event that the Division cannot present the accusation, the Commission may request outside counsel or representation by another state agency or may adequately segregate one or more Commission staff members from the Commissioners and Commission legal unit to present the accusation.

(c) The Administrative Law Judge and Commission shall base their decisions on written findings of fact, including findings concerning any relevant aggravating or mitigating factors. Findings of fact shall be based upon a preponderance of the evidence standard. The "preponderance of the evidence standard" is such

evidence as when considered and compared with that opposed to it, has more convincing force, and produces a belief in the mind of the fact-finder that what is sought to be proved is more likely true than not true.

(d) Upon a finding of a violation of the Gambling Control Act, any regulations adopted pursuant thereto, any law related to gambling or gambling establishments, violation of a previously imposed disciplinary or license condition, or laws whose violation is materially related to suitability for a license, registration, permit, or approval, the Commission may do any one or more of the following:

- (1) Revoke the license, registration, permit, finding of suitability, or approval;
- (2) Suspend the license, registration, or permit;
- (3) Order the licensing authority of a city, county, or city and county to revoke a work permit, pursuant to Business and Professions Code section 19914, subdivision (a),
- (4) Impose any condition, limitation, order, or directive (including but not limited to a directive to divest an interest in a business entity pursuant to Business and Professions Code, section 19879);
- (5) Impose any fine or monetary penalty consistent with Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b);
- (6) Stay, in whole or in part, the imposition of a revocation or suspension against the holder of a license, registration, work permit, finding of suitability, or approval, or
- (7) Order the holder to pay a monetary penalty in lieu of all or a portion of a suspension. Within the guidelines of Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b):
 - (A) If the respondent is an owner of a gambling establishment, the monetary penalty shall be equivalent of fifty percent of the average daily gross gaming revenue, but not less than ~~\$500~~\$300, for the number of days for which the suspension is stayed.
 - (B) ~~OPTION 1:~~ If the respondent is an owner of a third-party provider of proposition player services and the violation did not involve a fraudulent, expired, borrowed, or stolen badge, and did not involve a non-registered or non-licensed employee of the owner, the monetary penalty shall be the sum of \$500 plus the total of \$100 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the

violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.

(C) ~~OPTION 2:~~ If the respondent is an owner of a third-party provider of proposition player services and the violation involved a fraudulent, expired, borrowed, or stolen badge, or involved a non-registered or non-licensed employee of the owner, the monetary penalty shall be the sum of \$500 plus the total of \$300 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.

(D) If the respondent is an owner of a gambling business, the monetary penalty shall be \$1500 per day for the number of days for which the suspension is stayed.

(E) If the respondent is a key employee of a gambling establishment or a supervisor of a gambling business or third-party provider of proposition player services, the monetary penalty shall be \$100 per day for the number of days for which the suspension is stayed.

(F) If the respondent is a holder of a work permit, a player or other employee of a gambling business or third-party provider of proposition player services, or a person not otherwise described above, the monetary penalty shall be \$50 per day for the number of days for which the suspension is stayed.

(e) If a person's state gambling license for a gambling establishment is revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the gambling establishment, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might directly or indirectly be due to such person or which arise out of, are attributable to, or are derived from controlled gambling.

(f) If an owner of a third-party provider of proposition player services or gambling business has his or her owner's license or registration revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the third-party provider of proposition player services or gambling business, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might

1 directly or indirectly be due to such person or which arise out of, are attributable
2 to, or are derived from the provision of proposition player services.

3 (g) For decisions concerning a gambling establishment, findings shall be made
4 regarding the number of tables in operation at the establishment and the annual
5 gross gaming revenue of the establishment.

6 (h) For decisions concerning an owner of a third-party provider of proposition player
7 services, findings shall be made regarding the maximum number of tables for
8 which proposition player services have been contracted at the gambling
9 establishment where the violation was charged.

10 (i) Any order to pay the costs of investigation or prosecution of the case shall be
11 fixed pursuant to Business and Professions Code section 19930, subdivision (d).

12 (j) For multiple violations, or for suspensions imposed by other jurisdictions based
13 on the same violations, the decision shall state whether any Commission-
14 imposed suspensions shall run consecutively or concurrently.
15

16 Authority: Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920,
17 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

18 Reference: Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions
19 Code, Section 11045 of the Government Code, and Section 10335 of the Public Contract
20 Code.
21

22 **12556. Factors in Mitigation or Aggravation of Penalty**

23 If presented by complainant or respondent, the Commission shall consider the
24 following factors in mitigation or aggravation of the penalty imposed:

25 (a) Violation of any previously imposed or agreed upon condition, restriction or
26 directive.

27 (b) Whether or not the conduct was knowing, willful, reckless, or inadvertent.

28 (c) The extent to which respondent cooperated with the Division or Commission
29 during the investigation of the violation.

30 (d) The extent to which respondent was honest with the Division or Commission
31 during the investigation of the violation.

32 (e) The extent to which respondent is willing to reimburse or otherwise make
33 whole any person who has suffered a loss due to the violation.

34 (f) Whether respondent has initiated remedial measures to prevent similar
35 violations.

36 (g) The extent to which respondent realized an economic gain from the violation.

37 (h) Disciplinary history of respondent, repeated offenses of the same or similar
38 nature, or evidence that the unlawful act was part of a pattern or practice.

- (i) Any other aggravating factors, including any factors which the Commission determines to bear on the health, safety, or welfare of the public.
- (j) The extent to which there was actual or potential harm to the public or to any patron.
- (k) The extent to which an owner licensee or key employee of a gambling establishment, owner or supervisor of a third-party provider of proposition player services, or owner or supervisor of a gambling business exercised due diligence in management or supervision.
- (l) If the violation was caused by an employee of a third-party provider of proposition player services or gambling business, the extent to which the owner licensee, licensee, or registrant knew or should have known of the employee's improper conduct; the level of authority of the employee involved and the extent to which the employee acted within the scope of his or her authority in committing the violation.
- (m) If the violation was caused by a third-party provider of proposition player services or gambling business, the extent to which the owner licensee or gambling establishment knew or should have known of the improper conduct.
- (n) If the violation was caused by an independent contractor of a gambling business, the extent to which the gambling business owner licensee, licensee, or registrant knew or should have known of the independent contractor's improper conduct; the level of authority of the independent contractor involved and the extent to which the independent contractor acted within the scope of his or her authority in committing the violation.
- (o) If the violation was caused or committed by a third party, the extent to which the owner licensee, licensee, or registrant knew or should have known of the third party's improper conduct.
- (p) Any relevant evidence offered by respondent in mitigation of the violation.

Authority: Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920, 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

Reference: Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions Code.

12558. Disciplinary Guidelines for Holders of Work Permits

Pursuant to Business and Professions Code, section 19914, the holder of a work permit shall be subject to a minimum penalty of a three-day suspension, which may be stayed on terms and conditions and any monetary penalty as described in

1 section 12554(d)(7) of this chapter, up to a maximum penalty of revocation by the
2 Commission if the Commission finds that the holder:

- 3 (a) Engaged in or committed a prohibited act specified in Business and
4 Professions Code 19914, subdivision (a).
- 5 (b) Does not currently meet any criterion for eligibility or qualification.
- 6 (c) Violated or is in violation of any condition, limitation or directive previously
7 imposed on the work permit.
- 8 (d) Violated or is in violation of any Commission or Division regulations, including
9 those regulations regarding work permits in the California Code of
10 Regulations, title 4, division 18, chapter 2 (commencing with section 12100).

11 Authority: Sections 19811, 19823, 19824, 19911, 19912, 19914, 19920, 19930, 19932, and 19971 of
12 the Business and Professions Code.

13 Reference: Section 19878 of the Business and Professions Code.
14

15 **12560. Disciplinary Guidelines for Third-party providers of proposition player** 16 **services licensees or registrants**

- 17 (a) If the Commission finds that an owner of a third-party provider of proposition
18 player services, as that term is used in California Code of Regulations, title 4,
19 section 12200, is out of compliance with any mandatory duty specified in or
20 imposed by the Gambling Control Act or any Commission or Division regulation,
21 which is not otherwise listed in these disciplinary guidelines, the penalty shall be
22 one day of suspension of proposition player services from either specified
23 gambling establishments or all gambling establishments, as the circumstances
24 and factors in mitigation or aggravation apply and which may be stayed on terms
25 and conditions and any monetary penalty as described in section 12554(d)(7) of
26 this chapter., ~~which may be stayed by the Commission upon the payment of a~~
27 ~~monetary penalty as follows:~~

28 ~~(1) If the third party provider of proposition player services has 5 or less~~
29 ~~licensees or registrants, the penalty shall be between \$50 and \$100,~~
30 ~~based upon factors in mitigation and aggravation.~~

31 ~~(2) If the third party provider of proposition player services has 6 to 12~~
32 ~~licensees or registrants, the penalty shall be between \$100 and~~
33 ~~\$2000, based upon the factors in mitigation and aggravation.~~

34 ~~(3) If the third party provider of proposition player services has 13 or~~
35 ~~more licensees or registrants, the penalty shall be between \$2000~~
36 ~~and \$10000, based upon the factors in mitigation and aggravation.~~

- 37 (b) A license or registration granted by the Commission for an owner of a third-
38 party provider of proposition player services, as that term is used in California
39 Code of Regulations, title 4, section 12200, shall be subject to a minimum

1 discipline of suspension of seven days from either specified gambling
2 establishments or all gambling establishments, as the circumstances and factors
3 in mitigation or aggravation apply, and a maximum discipline of revocation, which
4 may be stayed on terms and conditions and any monetary penalty as described
5 in section 12554 (d)(7) of this chapter, if the Commission finds that:

- 6 (1) The owner has violated or is out of compliance with any conditions,
7 limitations, orders, or directives imposed by the Commission, either as
8 part of an initial grant of license or registration, renewal of such, or
9 pursuant to disciplinary action,
- 10 (2) The owner has been found, by any administrative tribunal or court, to
11 have violated or be in violation of any law involving or relating to
12 gambling,
- 13 (3) The owner has intentionally misrepresented a material fact on an
14 application or supplemental application for licensure or registration,
- 15 (4) The owner has engaged in any dishonest, fraudulent, or deceptive
16 activities in connection with controlled gambling or the provision of
17 proposition player services,
- 18 (5) The owner has violated any law or ordinance with respect to campaign
19 finance disclosure or contribution limitations, pursuant to Business and
20 Professions Code, section 19982,
- 21 (6) The owner has violated California Code of Regulations, title 4,
22 regarding annual fees for third party providers of proposition player
23 services,
- 24 (7) The owner has provided proposition player services in violation of
25 California Code of Regulations, title 4, section 12200.7, subdivision
26 (b)(9) or (b)(11),
- 27 (8) The owner has failed to fully disclose financial arrangements in violation
28 of California Code of Regulations, title 4, section 12200.7, subdivision
29 (b)(15),
- 30 (9) The primary owner has failed to report cheating, in violation of
31 California Code of Regulations, title 4, section 12200.7, subdivision
32 (b)(18),
- 33 (10) The owner has purchased, leased, or controlled equipment in
34 violation of California Code of Regulations, title 4, section 12200.7,
35 subdivision (b)(21),
- 36 (11) The owner has failed to have the proposition player contract
37 approved, in violation of California Code of Regulations, title 4, section
38 12200.7, subdivision (b)(22), or section 12200.9,

- (12) The owner has authorized or provided payment to or receipt by the gambling establishment, in violation of California Code of Regulations, title 4, section 12200.7, subdivision (c),
- (13) The owner has been cheating, or has induced or instructed another to cheat, pursuant to Penal Code, sections 337t, 337u, 337v, 337w, or 337y,
- (14) The owner has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),
- (15) The owner has committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)),
- (16) The owner has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with Section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),
- (17) The owner has committed bribery (as that term is used in Penal Code section 67 or 67.5),
- (18) The owner has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with Section 186.9),
- (19) The owner has granted rebates to patrons without full disclosure, in violation of California Code of Regulations, title 4, section 12200.7, subdivision (19),
- (20) The owner has violated the provisions regarding playing books listed in California Code of Regulations, title 4, section 12200.13,
- (21) The owner has committed any of the acts listed in California Code of Regulations, title 4, section 12200.18, subdivisions (a), (b), (d), (e), (f), (i), (j), (l), (m), or (n), or
- (22) The owner is providing services as a gambling business without first obtaining a gambling business registration or license, in violation of California Code of Regulations, title 4, section 12220 et seq.
- (c) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, title 4, section 12200, shall be subject to a minimum monetary penalty of \$100 and/or a suspension of three days and a maximum penalty of revocation if the Commission finds that:
- (1) The supervisor, player, or other employee has violated or is out of compliance with conditions, limitations, or orders or directives imposed

- 1 by the Commission, either as part of an initial grant of license or
2 registration, renewal of such, or pursuant to disciplinary action,
- 3 (2) The supervisor, player, or other employee has engaged in any
4 dishonest, fraudulent, or deceptive activities in connection with
5 controlled gambling or the provision of proposition player services,
- 6 (3) The supervisor, player, or other employee has committed any act
7 punishable as a crime, not otherwise listed in these disciplinary
8 guidelines, which substantially relates to the duties and qualifications of
9 the licensee or registrant, or which occurred in a gambling
10 establishment or the associated adjacent property, or
- 11 (4) The supervisor, player, or other employee has engaged in any conduct
12 on the premises of the gambling establishment or in connection with
13 controlled gambling or the provision of proposition player services
14 which is inimical to the health, welfare, or safety of the general public.
- 15 (5) The supervisor, player, or other employee has either failed to wear a
16 badge, worn a badge which was covered, worn a false or altered badge
17 or a badge issued for a different gambling establishment, worn another
18 person's badge, or worn an expired badge,
- 19 (6) The supervisor, player, or other employee has engaged in fighting or
20 has intentionally provoked a patron or employee at a gambling
21 establishment,
- 22 (7) The supervisor, player, or other employee has maliciously or willfully
23 destroyed or damaged the property of the gambling establishment,
24 employee, or patron,
- 25 (8) The supervisor, player, or other employee has accepted tips, gratuities,
26 complimentaries, or gifts from gambling establishment staff or patrons
- 27 (9) The supervisor, player, or other employee has committed any of the
28 acts listed in California Code of Regulations, title 4, section 12220.18,
29 subdivision (a), or
- 30 (10) The supervisor, player, or other employee has failed to comply
31 with California Code of Regulations, title 4, section 12200.21.
- 32 (d) A supervisor, player, or other employee, as those terms are used in California
33 Code of Regulations, title 4, section 12200, shall be subject to a minimum
34 monetary penalty of \$300 and/or a suspension of 7 days and a maximum penalty
35 of revocation if the Commission finds that:
- 36 (1) The supervisor, player, or other employee has intentionally
37 misrepresented a material fact on an application, request to convert, or
38 supplemental application for licensure, registration, or approval,

- (2) The supervisor, player, or other employee has been cheating, pursuant to Penal Code, section 337x,
- (3) The supervisor, player, or other employee has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),
- (4) The supervisor, player, or other employee has committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)),
- (5) The supervisor, player, or other employee has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with Section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),
- (6) The supervisor, player, or other employee has committed bribery (as that term is used in Penal Code section 67 or 67.5),
- (7) The supervisor, player, or other employee has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with Section 186.9),
- (8) The supervisor, player, or other employee has granted rebates to patrons without full disclosure, in violation of California Code of Regulations, title 4, section 12200.7, subdivision (19), or
- (9) The supervisor, player, or other employee has committed any of the acts listed in California Code of Regulations, title 4, section 12200.18 subdivisions (b), (c), (d), (f), (g), (h), (i), (j), or (k).
- (e) A license or registration granted by the Commission for an owner of a third-party provider of proposition player services, or for a supervisor, player, or other employee, as those terms are used in California Code of Regulations, title 4, section 12200, shall be subject to revocation if the Commission finds that:
- (1) The owner, supervisor, player, or other employee has been convicted of a felony or a crime of moral turpitude that would disqualify the holder from licensure, or
- (2) The owner, supervisor, player, or other employee no longer meets any criterion for eligibility, pursuant to California Code of Regulations, title 4, sections 12204 or 12200.11.
- Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the Business and Professions Code.
- Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.

1
2 **12562. Disciplinary Guidelines for Gambling business licensees or registrants**

3 (a) If the Commission finds that an owner of a gambling business, as that term is
4 used in California Code of Regulations, title 4, section 12220, is out of
5 compliance with any mandatory duty specified in or imposed by the Gambling
6 Control Act or any Commission or Division regulation, which is not otherwise
7 listed in these disciplinary guidelines, the penalty shall be one day of suspension
8 of gambling business services from either specified gambling establishments or
9 all gambling establishments, as the circumstances and factors in mitigation or
10 aggravation apply and which may be stayed on terms and conditions and any
11 monetary penalty as described in section 12554(d)(7) of this chapter. ~~, which~~
12 ~~may be stayed by the Commission upon the payment of a monetary penalty as~~
13 ~~follows:~~

14 ~~(1) If the gambling business has 5 or less licensees or registrants, the~~
15 ~~penalty shall be between \$50 and \$100, based upon factors in~~
16 ~~mitigation and aggravation.~~

17 ~~(2) If the gambling business has 6 to 12 licensees or registrants, the~~
18 ~~penalty shall be between \$100 and \$2000, based upon the factors in~~
19 ~~mitigation and aggravation.~~

20 ~~(3) If the gambling business has 13 or more licensees or registrants, the~~
21 ~~penalty shall be between \$2000 and \$10000, based upon the factors~~
22 ~~in mitigation and aggravation.~~

23 (b) A license or registration granted by the Commission for an owner of a
24 gambling business, as that term is used in California Code of Regulations, title 4,
25 section 12220, shall be subject to a minimum monetary penalty of \$2500 and/or
26 a discipline of suspension of seven days from either specified gambling
27 establishments or all gambling establishments, as the circumstances and factors
28 in mitigation or aggravation apply, and a maximum discipline of revocation by the
29 Commission if the Commission finds that:

30 (1) The owner has violated or is out of compliance with any conditions,
31 limitations, orders, or directives imposed by the Commission, either as
32 part of an initial grant of license or registration, renewal of such, or
33 pursuant to disciplinary action,

34 (2) The owner has been found, by any administrative tribunal or court, to
35 have violated or be in violation of any law involving or relating to
36 gambling,

37 (3) The owner has intentionally misrepresented a material fact on an
38 application or supplemental application for licensure or registration,

- (4) The owner has engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling or the provision of proposition player services as a gambling business,
 - (5) The owner has violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982,
 - (6) The owner has violated California Code of Regulations, title 4, regarding annual fees for gambling businesses,
 - (7) The owner has been cheating, or has induced or instructed another to cheat, pursuant to Penal Code, sections 337t, 337u, 337v, 337w, or 337y,
 - (8) The owner has committed extortion (as that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with section 518),
 - (9) The owner has committed loan-sharking (as that term is used in Civil Code section 1916-3, subdivision (b)),
 - (10) The owner has conducted or negotiated illegal sales of controlled substances (as that term is used in Chapter 1 (commencing with Section 11000) of Division 10 of the Health and Safety Code) or dangerous drugs (as that term is used in Business and Professions Code, section 4022),
 - (11) The owner has committed bribery (as that term is used in Penal Code section 67 or 67.5),
 - (12) The owner has committed money laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with Section 186.9),
 - (13) The owner is providing services as a gambling business without first obtaining a gambling business registration or license, in violation of California Code of Regulations, title 4, section 12220 et seq., or
 - (14) The owner has committed any of the acts listed in California Code of Regulations, title 4, section 12220.18, subdivisions (a), (b), (d), (e), (f), (l), or (m).
- (c) A supervisor, player, or other employee, as those terms are used in California Code of Regulations, title 4, section 12220, shall be subject to a minimum monetary penalty of \$100 and/or a suspension of three days and a maximum penalty of revocation if the Commission finds that:
- (1) The supervisor, player, or other employee has violated or is out of compliance with conditions, limitations, or orders or directives imposed

- 1 by the Commission, either as part of an initial grant of license or
2 registration, renewal of such, or pursuant to disciplinary action,
- 3 (2) The supervisor, player, or other employee has engaged in any
4 dishonest, fraudulent, or deceptive activities in connection with
5 controlled gambling,
- 6 (3) The supervisor, player, or other employee has committed any act
7 punishable as a crime, not otherwise listed in these disciplinary
8 guidelines, which substantially relates to the duties and qualifications of
9 the licensee or registrant, or which occurred in a gambling
10 establishment or the associated adjacent property,
- 11 (4) The supervisor, player, or other employee has engaged in any conduct
12 on the premises of the gambling establishment or in connection with
13 controlled gambling which is inimical to the health, welfare, or safety of
14 the general public.
- 15 (5) The supervisor, player, or other employee has either failed to wear a
16 badge, worn a badge which was covered, worn a false or altered badge
17 or a badge issued for a different gambling establishment, worn another
18 person's badge, or worn an expired badge,
- 19 (6) The supervisor, player, or other employee has engaged in fighting or
20 has intentionally provoked a patron or employee at a gambling
21 establishment,
- 22 (7) The supervisor, player, or other employee has maliciously or willfully
23 destroyed or damaged the property of the gambling establishment,
24 employee, or patron,
- 25 (8) The supervisor, player, or other employee has accepted tips, gratuities,
26 complimentaries, or gifts from gambling establishment staff or patrons,
- 27 (9) The supervisor, player, or other employee has committed any of the
28 acts listed in California Code of Regulations, title 4, section 12220.18,
29 subdivision (a), or
- 30 (10) The supervisor, player, or other employee has failed to comply
31 with California Code of Regulations, title 4, section 12220.21.
- 32 (d) A supervisor, player, or other employee, as those terms are used in California
33 Code of Regulations, title 4, section 12220, shall be subject to a minimum
34 penalty of a monetary penalty of \$300 and/or a suspension of 7 days and a
35 maximum penalty of revocation if the Commission finds that:
- 36 (1) The supervisor, player, or other employee has intentionally
37 misrepresented a material fact on an application, request to convert, or
38 supplemental application for licensure, registration, or approval,

- 1 (2) The supervisor, player, or other employee has been cheating, pursuant
2 to Penal Code, section 337x,
- 3 (3) The supervisor, player, or other employee has committed extortion (as
4 that term is defined in Chapter 7 of Title 13 of Part 1 of the Penal Code,
5 commencing with section 518),
- 6 (4) The supervisor, player, or other employee has committed loan-sharking
7 (as that term is used in Civil Code section 1916-3, subdivision (b)),
- 8 (5) The supervisor, player, or other employee has conducted or negotiated
9 illegal sales of controlled substances (as that term is used in Chapter 1
10 (commencing with Section 11000) of Division 10 of the Health and
11 Safety Code) or dangerous drugs (as that term is used in Business and
12 Professions Code, section 4022),
- 13 (6) The supervisor, player, or other employee has committed bribery (as
14 that term is used in Penal Code section 67 or 67.5),
- 15 (7) The supervisor, player, or other employee has committed money
16 laundering (as that term is used in Chapter 10 of Title 7 of Part 1 of the
17 Penal Code, commencing with Section 186.9),
- 18 (8) The supervisor, player, or other employee has committed any of the
19 acts listed in California Code of Regulations, title 4, section 12220.18
20 subdivisions (c), (d), (f), (g), (h), (i), (j), or (k).
- 21 (e) A license or registration granted by the Commission for an owner of a
22 gambling business, or for a supervisor, player, or other employee, as those terms
23 are used in California Code of Regulations, title 4, section 12220, shall be subject
24 to revocation if the Commission finds that:
- 25 (1) The owner, supervisor, player, or other employee has been convicted of a
26 felony or a crime of moral turpitude that would disqualify the holder from
27 licensure, or
- 28 (2) The owner, supervisor, player, or other employee no longer meets any
29 criterion for eligibility, pursuant to California Code of Regulations, title 4,
30 sections 12224 or 12220.11.
- 31
- 32 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875,
33 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the Business and
34 Professions Code.
- 35 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,
36 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the
37 Business and Professions Code.
- 38

1 **12564. Disciplinary Guidelines for Manufacturers or Distributors**

2 A registration granted by the Commission for a manufacturer or distributor of
3 gambling equipment shall be subject to suspension or revocation by the
4 Commission if the Commission finds that the registrant has violated California Code
5 of Regulations, title 4, section 12303, subdivision (b).
6

7 Authority: Sections 19801(g), 19811, 19823, 19824, 19827(a)(1), 19840, 19841(r), 19850, 19854,
8 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the
9 Business and Professions Code.

10 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,
11 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the
12 Business and Professions Code.

13
14 **12566. Disciplinary Guidelines for Gambling Establishments**

15 (a) If the Commission finds that a gambling establishment is out of compliance with
16 any mandatory duty specified in or imposed by the Gambling Control Act or any
17 Commission or Division regulation, or any local ordinance, which is not otherwise
18 listed in these disciplinary guidelines, pursuant to Business and Professions
19 Code section 19922, the penalty shall be one day of suspension, stayed upon
20 the payment of a penalty, within the guidelines of Business and Professions
21 Code, sections 19930, subdivision (c), and 19943, subdivision (b), as follows:

22 (1) If the establishment has five tables or less and has an annual gross
23 gaming revenue up to and including \$10,000, the penalty shall be between
24 \$50 and \$100, based upon the factors in mitigation and aggravation.

25 (2) If the establishment has ten tables or less or has an annual gross gaming
26 revenue over \$10,000, up to and including \$200, 000, the penalty shall be
27 between \$100 and \$2000, based upon the factors in mitigation and
28 aggravation.

29 (3) If the establishment has more than ten tables or has an annual gross
30 gaming revenue over \$200,000, the penalty shall be between \$2000 and
31 \$10,000, based upon the factors in mitigation and aggravation.

32 (b) A state gambling license for a gambling establishment granted by the
33 Commission shall be subject to a minimum discipline of suspension for seven
34 days of normal business operation and a maximum discipline of revocation,
35 which may be stayed on terms and conditions and any monetary penalty as
36 described in section 12554(d)(7) of this chapter, if the Commission finds that the
37 establishment has:

38 (1) Violated or is out of compliance with conditions, limitations, or orders or
39 directives imposed by the Commission, either as part of an initial grant of
40 license or registration, renewal of such, or pursuant to disciplinary action,

- (2) Been found, by any administrative tribunal or court in a separate proceeding, to have violated or be in violation of any law involving or relating to gambling,
- (3) Intentionally misrepresented a material fact on an application or supplemental application for licensure or registration,
- (4) Failed to maintain adequate financing for chips in use or for player banks,
- (5) Failed to report the operation of unregistered gambling businesses when the owners or management of the establishment knew or should have known that these gambling businesses were operating in the establishment,
- (6) Concealed or did not disclose ownership, interest, or key employee status, pursuant to Business and Professions Code, sections 19850, 19851, 19853, 19854, 19855, 19883, or 19901,
- (7) Violated Business and Professions Code, section 19878 (contract with, employment of, services provided by person(s) with denied, suspended, or revoked license or registration),
- (8) Violated Business and Professions Code, section 19912 (failure to have valid work permit),
- (9) Violated Business and Professions Code, section 19921 (failure to exclude persons under 21 from access to gambling areas), or violated Business and Professions Code, section 19941 (failure to prohibit persons under 21 from gambling, loitering, being employed in gambling areas, or using fraudulent identification to gamble, loiter, or be employed), unless the licensee provides the defense described in Business and Professions Code, section 19941, subdivision (c).
- (10) Violated Business and Professions Code, section 19924 (failure to maintain security controls),
- ~~(11) Violated Business and Professions Code, section 19941 (failure to prohibit persons under 21 from gambling, loitering, being employed in gambling areas, or using fraudulent identification to gamble, loiter, or be employed),~~
- ~~(12)~~(11) Violated Business and Professions Code, section 19942 (willful failure to report or pay license fee),
- ~~(13)~~(12) Violated any law or ordinance with respect to campaign finance disclosure or contribution limitations, pursuant to Business and Professions Code, section 19982,
- ~~(14)~~(13) Provided false or intentionally incomplete financial data, in violation of California Code of Regulations, title 4, chapter 7, article 4

(commencing with section 12400), regarding accounting and financial reporting,

~~(15)~~(14) Refused to allow Division or Commission inspection of records or information required to be maintained pursuant to California Code of Regulations, title 4, chapter 7, article 4 (commencing with section 12400), regarding accounting and financial reporting,

~~(16)~~(15) Violated California Code of Regulations, title 11, section 2050, subsection (a) (failure to maintain owner licensee or key employee on premises),

~~(17)~~(16) Violated California Code of Regulations, title 11, section 2052 (failure to furnish information ~~regarding employees~~), or

~~(18)~~(17) Violated California Code of Regulations, title 11, section 2070 (unsuitable gaming activities).

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the Business and Professions Code.

Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.

12568. Disciplinary Guidelines for Holders of Licenses, Findings of Suitability, or Approvals

(a) A license for an individual or any finding of suitability or approval granted by the Commission shall be subject to a minimum discipline of suspension for three days of normal business operation and a maximum discipline of revocation, which may be stayed on terms and conditions and any monetary penalty as described in section 12554(d)(7) of this chapter, if the Commission finds that the holder has:

- (1) Violated or is out of compliance with conditions, limitations, or orders or directives imposed by the Commission, either as part of an initial grant of license or registration, renewal of such, or pursuant to disciplinary action,
- (2) Engaged in any dishonest, fraudulent, or deceptive activities in connection with controlled gambling,
- (3) Committed any act punishable as a crime, not otherwise listed in these disciplinary guidelines, which substantially relates to the duties and qualifications of the licensee or registrant, or which occurred in a gambling establishment or the associated adjacent property, or

- 1 (4) Engaged in any conduct on the premises of the gambling establishment or
2 in connection with controlled gambling which is inimical to the health,
3 welfare, or safety of the general public.
- 4 (b) A license, finding of suitability, or approval granted by the Commission shall be
5 subject to a minimum discipline of suspension for seven days of normal
6 scheduled work and a maximum discipline of revocation, which may be stayed
7 on terms and conditions and any monetary penalty as described in section
8 12554(d)(7) of this chapter, if the Commission finds that the holder has:
- 9 (1) Intentionally misrepresented a material fact on an application or
10 supplemental application for licensure or registration,
- 11 (2) Intentionally provided untruthful responses during an investigation by the
12 Division, pursuant to Business and Professions Code, section 19827,
- 13 (3) Willfully interfered with the performance of Commission or Division duties,
14 pursuant to Business and Professions Code, section 19944,
- 15 (4) Committed an act prohibited by Chapter 9 (commencing with section 319)
16 and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the
17 Penal Code, including but not limited to operation of a banked or
18 percentage game (Penal Code, section 330), possession or sale of a slot
19 machine (Penal Code, section 330b) or agreement for slot machine payout
20 (Penal Code, section 330.1), bookmaking (Penal Code, section 337), and
21 cheating (Penal Code, section 337x),
- 22 (5) Committed extortion (as that term is defined in Chapter 7 of Title 13 of Part
23 1 of the Penal Code, commencing with section 518),
- 24 (6) Committed loan-sharking (as that term is used in Civil Code section 1916-
25 3, subdivision (b)),
- 26 (7) Conducted or negotiated illegal sales of controlled substances (as that
27 term is used in Chapter 1 (commencing with Section 11000) of Division 10
28 of the Health and Safety Code) or dangerous drugs (as that term is used in
29 Business and Professions Code, section 4022),
- 30 (8) As an owner licensee, not taken reasonable steps to prevent the crimes
31 listed in subsections (b)(5) through (b)(8) from occurring at the gambling
32 establishment, when the owner licensee knew or should have known that
33 these crimes were being committed,
- 34 (9) Committed bribery (as that term is used in Penal Code section 67 or 67.5),
- 35 (10) Committed money laundering (as that term is used in Chapter 10 of
36 Title 7 of Part 1 of the Penal Code, commencing with Section 186.9),
- 37 (11) Been convicted of a crime involving fiscal dishonesty, including but not
38 limited to tax evasion (26 U.S.C. § 7201),

- 1 (12) Been convicted in any jurisdiction of any offense involving or relating to
2 gambling, or
- 3 (13) Been found to have violated or be in violation of any law involving or
4 relating to gambling in a final administrative decision in any jurisdiction.
- 5 (c) A state gambling license, finding of suitability, or approval granted by the
6 Commission shall be subject to revocation by the Commission on any of the
7 following grounds:
- 8 (1) If the Commission finds the holder to have been convicted of a felony or a
9 crime of moral turpitude that would disqualify the holder from licensure,
- 10 (2) If the Commission finds the holder to have engaged in or committed a
11 prohibited act specified in Business and Professions Code section 19863
12 (no more than one gambling establishment at racetrack),
- 13 (3) If the Commission finds the holder no longer meets any criterion for
14 eligibility, qualification, suitability or continued operation, including those
15 set forth in Business and Professions code sections 19857, 19858, or
16 19880, as applicable, or
- 17 (4) If the Commission finds the holder currently meets any of the criteria for
18 mandatory denial of an application set forth in Business and Professions
19 Code sections 19859 or 19860.
- 20 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875,
21 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the
22 Business and Professions Code.
- 23 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,
24 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the
25 Business and Professions Code.

27 **12572. Precedential Decisions.**

28 Pursuant to Government Code section 11425.60, the Commission, at a noticed
29 Commission meeting, may:

30 (a) Designate all or part of any of the following as a precedential decision:

31 (1) An adopted final decision, or

32 (2) An adopted stipulated decision pursuant to a settlement agreement.

33 (b) Reverse in whole or in part the prior designation of a decision as a
34 precedential decision.

- 35
- 36 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19912, 19914, 19920, 19922,
37 19924, 19930, and 19971 of the Business and Professions Code.
- 38 Reference: Sections 19857, 19858, 19859, 19862, 19870, 19878, 19912, 19913, 19914, 19930, and
39 19931 of the Business and Professions Code. Section 11425.60 of the Government Code.